

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE MICHAEL STAPLETON ASSOCIATES, LTD.
Employment Litigation.

MASTER FILE: 17 Civ. 5468(GWG)

ORDER

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GABRIEL W. GORENSTEIN
United States Magistrate Judge

This is wage-hour class and collective action brought under The Fair Labor Standards Act (the “FLSA”), 29 U.S.C. §§ 201-219 and under laws of New York and California. On December 12, 2018, the parties consented to have a United States Magistrate Judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings. Doc. No. 173-1. This case was settled pursuant to a settlement agreement dated March 28, 2019 (the “Settlement Agreement”), which agreement was approved pending a fairness hearing by the undersigned by order dated April 1, 2019. Doc. No. 203. After the fairness hearing on August 8, 2019, the undersigned entered signed a final order approving the Settlement Agreement, and judgment was entered on August 9, 2019. All capitalized terms shall have the same definitions as stated in the Settlement Agreement. Doc. No. 236-1. Section L of the Settlement Agreement provides that “the Court shall retain jurisdiction over the interpretation and implementation of this Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Agreement and of the settlement contemplated hereby.”

On June 30, 2020, Defendant Michael Stapleton Associates, Ltd. (“MSA Security”) filed a motion seeking an order extending the deadline for ten potential plaintiffs who worked as handlers during the period of time covered by the collective action. Doc. No. 250. These ten

potential plaintiffs did not file formal consents to join the Collective but had informally contacted the Settlement Claims Administrator to request inclusion in the collective in October 2019 and November 2019.

Three of the potential plaintiffs, Todd Hardman, Chad Ziegenhorn, and Leonard Krawczyk, filed affidavits with the Settlement Claims Administrator. Mr. Krawczyk's and Mr. Ziegenhorn's affidavits were dated March 6, 2020 and Mr. Ziegenhorn's is dated March 9, 2020.

The Court has considered Class Counsel's opposition and Defendant's reply and held oral argument on August 13, 2020. Doc. Nos. 251-257.

It is hereby ORDERED that Defendant's motion is GRANTED IN PART and DENIED IN PART as follows:

1. The Court grants the motion to extend the deadline for Mr. Hardman, Mr. Krawczyk, and Mr. Ziegenhorn to join the FLSA Collective.

2. For purposes of determining their share of the Settlement, Mr. Hardman and Mr. Krawczyk will be deemed to have filed a consent to join the FLSA Collective on March 6, 2020, the dates of their aforementioned affidavits. Mr. Ziegenhorn will be deemed to have filed a consent to join the FLSA Collective on March 9, 2020, the date of his affidavit. The FLSA statute of limitations will be deemed to have continued running until those dates.

3. The Reserve Fund shall be used to pay the claims of Mr. Hardman and Mr. Krawczyk.

4. A condition of Mr. Krawczyk being permitted to join the collective is that Defendant MSA Security return to the Gross Settlement Fund the reverter payment of \$2,136.63 it received as a result of Mr. Krawczyk not previously joining the FLSA Collective, and shall not

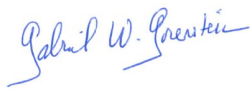
receive any further reverter with respect to Mr. Krawczyk. Those funds shall be used to pay the claims of Mr. Krawczyk.

5. By accepting any Settlement Check, Hardman, Krawczyk, and Ziegenhorn shall be deemed to be bound by the Settlement Agreement and the releases contained therein.

6. The Court denies Defendants' motion to extend the deadlines for the following potential plaintiffs to join the FLSA Collective: Benjamin Bomar, Jonathan Eckerd, Jason Junnier, William Lewis, Art Lopez, Chris Moritz, and Greg Willis.

IT IS SO ORDERED.

BY THE COURT:



Hon. Gabriel W. Gorenstein
United States Magistrate Judge
Dated: August 17, 2020